

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STATE OF NEBRASKA,
STATE OF MISSOURI,
STATE OF ARKANSAS,
STATE OF KANSAS,
STATE OF IOWA, and
STATE OF SOUTH CAROLINA,

Plaintiffs,

v.

JOSEPH R. BIDEN, Jr.,
In his official capacity as the President of
the United States of America;
MIGUEL CARDONA, in his official
capacity as Secretary of the United States
Department of Education; and
UNITED STATES DEPARTMENT OF
EDUCATION,

Defendants.

Case No. 4:22-cv-01040

JOINT STIPULATION

In accordance with the decision of the Supreme Court in *Biden v. Nebraska*, 143 S. Ct. 2355 (2023), the parties jointly present this Court a stipulation regarding appropriate relief on remand and final resolution of this case.

Background

On September 29, 2022, Plaintiffs filed their Complaint and an accompanying Motion for Preliminary Injunction, challenging the legality of Defendants' student loan forgiveness plan. Doc. 1, 3. The next month, this Court dismissed the Complaint for lack of standing. Doc. 44, 46. The Eighth Circuit entered an injunction pending appeal. *Nebraska v. Biden*, 52 F.4th 1044 (8th

Cir. 2022). Defendants sought certiorari before judgment in the Supreme Court, which the Court granted. *Biden v. Nebraska*, 143 S. Ct. 477 (2022).

On June 30, 2023, the Supreme Court reversed the district court’s judgment and remanded for further proceedings. *Biden v. Nebraska*, 143 S. Ct. at 2376. The Court held that the State of Missouri had standing. *Id.* at 2368. Next, it held that the HEROES Act—the statutory authority relied on by Defendants—“provides no authorization for the Secretary’s” student loan forgiveness plan and fails to provide “‘clear congressional authorization’ for such a program.” *Id.* at 2375.

The Parties’ Joint Stipulation

Consistent with the foregoing, the Parties jointly stipulate the following:

1. Plaintiffs are entitled to relief consistent with the Supreme Court’s judgment and accompanying opinion.
2. The Supreme Court concluded that Defendants’ student loan debt relief program, as described in the Federal Register Notice titled *Federal Student Aid Programs (Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program)*, 87 Fed. Reg. 61512 (October 12, 2022), exceeds Defendants’ statutory authority under the HEROES Act, 20 U.S.C. § 1098bb, and must be vacated and set aside, rendering the plan null and void.
3. Accordingly, this Court should enter final judgment for Plaintiffs and against Defendants declaring that Defendants’ student loan debt relief program is vacated and set aside as null and void. Notwithstanding the Department of Justice’s position that vacatur ordinarily is not an appropriate remedy under 5 U.S.C. 706, in this instance Defendants acquiesce in that remedy because the Supreme Court already has held Defendants’ loan-forgiveness plan to be in excess of statutory authority under the HEROES Act.

Dated: August 15, 2023

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CERTIFICATE OF SERVICE

I hereby certify that, on August 15, 2023, a true and correct copy of the foregoing and any attachments were filed electronically through the Court's CM/ECF system, to be served on counsel for all parties by operation of the Court's electronic filing system for all parties who have appeared and to be served on those parties who have not appeared in accordance with the Federal Rules of Civil Procedure or other means agreed to by the parties.

/s/ Eric J. Hamilton
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